

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

**Dan Kikinis**

Serial No.: 09/782,896

Filed: February 13, 2001

For: METHOD AND SYSTEM FOR 3-D  
ENHANCED ADVERTISING FOR TV  
BROADCAST OF 2-D VIDEO

Atty. Docket No.: 007287.00045

Group Art Unit: 2424

Examiner: Usha Raman

Confirmation No.: 3324

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**Box AF**

U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Applicant respectfully requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated in the below remarks. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

***Remarks***

Having received and reviewed the final Office Action dated February 4, 2009, Applicant respectfully submits that the standing rejections are based on one or more clear errors, and that the appeal process can be avoided through a pre-appeal brief review as set forth in the Official Gazette notice of July 12, 2005.

The pending rejections fail to address all the claim limitations, and exhibit clear factual and legal errors with respect to the cited references. The specific errors relied upon in this Pre-Appeal Brief Request for Review include the following:

- The Office erred in its combination of U.S. Patent Pub. No. 2005/0166224 to Ficco (hereinafter “Ficco”) in view of U.S. Patent No. 6,556,196 to Blanz *et al.* (hereinafter “Blanz”) in rejecting claims 1, 2, 4-8, 10-14 and 16-22 under 35 U.S.C. §103(a), as argued in Applicant’s Response filed October 9, 2008, at pp. 7-8. In response to Applicant’s remarks submitted in the Response of October 9, the Final Office Action asserts that advertisements may be processed in Ficco, including cosmetic changes, changing coloring, and adding texture to certain objects in the advertisement. p. 2. Even assuming, without conceding, that such an assertion is valid, the Final Office Action fails to address where or how Ficco teaches or suggests the looking-up of a 3-D object matching a 2-D image in an image library using a look-up table, wherein the library comprises one or more 3-D objects and using the matching 3-D object to generate an enhanced first advertisement, as recited in claim 1. Adding texture to certain objects in the advertisement does not constitute the looking-up of a 3-D object and using the 3-D object to generate an enhanced first advertisement because a texture does not correspond to a 3-D object. In fact, such a process would be the opposite of what is recited in claim 1. Stated differently, even if the Final Office Action were to argue that in processing advertisements, Ficco looks up a texture and applies the texture to a 3-D object, the texture is at best a 2-D image, not a 3-D object. In contrast, claim 1 recites looking up the *3-D object* based on a received 2-D image.
- Significantly, the Final Office Action goes on to allege that Ficco describes an advertisement library that includes one or more enhancement objects such as wire frame models or texture maps. p. 3. However, nowhere does Ficco support such an assertion. At most, Ficco states that an advertisement segment may be selected from one or more advertising segments stored in ad segment memories 22-28 with no mention of texture maps or wire frame models also being stored therein. Claim 1 is thus allowable for at least these reasons.
- The Final Office Action concedes at p. 4 that Ficco does not explicitly state that enhancement objects comprise 3-D objects. Instead, the Final Office Action relies on Blanz’s alleged description of producing a 3D representation of an image by pushing a morphable object to the 2D image. Applicants respectfully submit that this is a

mischaracterization of Blanz. Specifically, Blanz does not teach or suggest *pushing* a 3-D object into a 2-D image as recited in claim 1. Instead, Blanz merely describes morphing (e.g., changing 3-D parameters) of a 3-D model based on a 2-D image. *See, e.g.*, Col. 2, ll. 30-48; *see also* FIG. 4 and corresponding description. Accordingly, claim 1 is allowable for this additional reason.

- Additionally, Ficco describes use of the same or original alleged 3-D object (i.e., the wireframe), thereby eliminating a need, reason or motivation to look-up a matching wireframe model when processing a broadcast advertisement. *See, e.g.*, p. 6, para. [0090] (stating that “Johnny Unitas could be texture mapped onto a wireframe model *of the original quarterback* in a broadcast football game.”). (Emphasis Added). Thus, one of ordinary skill in the art would have had no reason to combine the references in the asserted manner.
- Claims 7, 13 and 19 recite features similar to those discussed above with respect to claim 1 and are thus allowable for at least the same reasons as claim 1.
- Claims 2-5, 8-11, 14-17 and 20-22 are dependent on claims 1, 7, 13 and 19, respectively, and are thus allowable for at least the same reasons as their base independent claim and further in view of the novel and non-obvious features recited therein. For example, claims 5, 11 and 17 recite, *inter alia*, “overlaying the 2-D image on the matching 3-D object.” Contrary to the Final Office Action’s assertions, Blanz does not teach or suggest such a feature. As noted above, nowhere does Blanz teach or suggest pushing a matching 3-D object into a 2-D image. The Final Office Action states that Blanz discloses the method of morphing a 2-D image to create a 3-D rendering of a 2-D image and thus describes overlaying a 2-D image on a matching 3-D object. Applicants respectfully disagree. Blanz lacks a teaching or suggestion of morphing a 2-D image. While Blanz describes adapting a morphable object to a 2-D image (e.g., a face scan), Blanz still does not teach or suggest *overlaying* the 2-D image onto the morphable object (i.e., the alleged 3-D object). Accordingly, claim 5, 11 and 17 are allowable for this additional reason.

While Applicant believes the above points represent the clearest errors made by the Office, Applicant reserves the right to appeal on other bases and errors. In addition, Applicant believes the

rejections of other claims not identified above are also based on one or more Office errors. Applicant will address such issues on appeal should the appeal of this case proceed after the Office's consideration of this paper.

### **CONCLUSION**

All issues having been addressed, Applicant respectfully submits that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. However, if for any reason the review panel believes the application is not in condition for allowance or there are any questions, the review panel is invited to contact the undersigned at (202) 824-3156.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated this 4th Day of June, 2009

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